

AMENDED IN SENATE AUGUST 19, 2014
AMENDED IN SENATE AUGUST 4, 2014
AMENDED IN SENATE JUNE 19, 2014
AMENDED IN ASSEMBLY MAY 20, 2014
AMENDED IN ASSEMBLY MAY 12, 2014
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AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1699

Introduced by Assembly Member Bloom
(~~Coauthors: Assembly Members Nestande and~~ Coauthor: Assembly
Member Stone)

February 13, 2014

An act to add Chapter 5.9 (commencing with Section 42360) to Part 3 of Division 30 of the Public Resources Code, relating to waste management.

LEGISLATIVE COUNSEL'S DIGEST

AB 1699, as amended, Bloom. Waste management: *synthetic* plastic microbeads.

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) prohibits any person, in the course of doing business, from knowingly and intentionally exposing any individual to a chemical known to the state to cause cancer or reproductive toxicity without giving a specified warning, or from discharging or releasing such a

chemical into any source of drinking water, except as specified. Existing law prohibits the sale of expanded polystyrene packaging material by a wholesaler or manufacturer. Existing law prohibits a person from selling a plastic product in this state that is labeled with the term “compostable,” “home compostable,” or “marine degradable” unless, at the time of sale, the plastic product meets the applicable American Society for Testing and Materials standard specification.

This bill would prohibit, after January 1, 2019, a person, as defined, from selling or offering for promotional purposes in this state a personal care product containing *synthetic* plastic microbeads, ~~as specified. specified, unless the personal care product is an over-the-counter drug, and would prohibit a person, after January 1, 2020, from selling or offering a personal care product containing synthetic plastic microbeads, including a personal care product that is an over-the-counter drug.~~ The bill would exempt from ~~this prohibition~~ *those prohibitions* the sale or promotional offer of a product containing less than 1 part per million (ppm) by weight of *synthetic* plastic microbeads, as provided.

The bill would make a violator liable for a civil penalty not to exceed \$2,500 per day for each violation. The bill would authorize the penalty to be assessed and recovered in a civil action brought in any court of competent jurisdiction by the Attorney General or local officials, as provided. The bill would require the civil penalties collected in an action brought pursuant to the act to be retained by the office of the Attorney General or local official who brought the action.

The bill would declare that its provisions occupy the whole field of regulation of *the sale or offering for promotional purposes of personal care products containing synthetic plastic microbeads and would microbeads.* The bill would prohibit a city, county, or other local public agency, on or after January 1, 2019, from adopting, enforcing, or otherwise implementing, an ordinance, resolution, regulation, or rule, or any amendment thereto, relating to *the sale or offering for promotional purposes of personal care products that are not over-the-counter drugs and that contain synthetic plastic microbeads,* and would prohibit a city, county, or other local public agency from taking similar actions, on or after January 1, 2020, relating to *the sale or offering for promotional purposes of personal care products, including, but not limited to, over-the-counter drugs, that contain synthetic plastic microbeads,* except as expressly authorized.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 5.9 (commencing with Section 42360)
is added to Part 3 of Division 30 of the Public Resources Code, to
read:

CHAPTER 5.9. *SYNTHETIC PLASTIC MICROBEADS NUISANCE*
PREVENTION LAW

42360. The Legislature finds and declares all of the following:

(a) Plastic does not biodegrade like other organic materials, but,
upon exposure to the elements, photodegrades into smaller pieces,
causing land and water pollution that is virtually impossible to
remediate.

(b) Plastic pollution is the dominant type of anthropogenic debris
found throughout the marine environment.

(c) Plastic pollution is an environmental and human health
hazard and a public nuisance.

(d) Consumer personal care products such as facial scrubs,
soaps, and toothpaste increasingly contain thousands of *synthetic*
plastic microbead particles, ranging from 50 to 500 microns, which
are flushed down drains as part of their intended use.

(e) ~~Plastic~~*Synthetic plastic* microbeads in personal care products
are not recoverable through ordinary wastewater treatment and so
are released into the environment.

(f) ~~Plastic~~*Synthetic plastic* microbeads of the size found in
personal care products are ingested by marine organisms.

(g) ~~Plastic~~*Synthetic plastic* microbeads attract other pollutants
commonly present in the environment, many of which are
recognized to have serious deleterious impacts on human health
or the environment, including DDT, DDE, PCBs, and flame
retardants.

(h) ~~Plastic~~*Synthetic plastic* microbeads have been found in
surface waters within the United States, as well as in fish, marine
mammals, and reptiles, and in the digestive and circulatory systems
of mussels and worms.

(i) PAHs, PCBs, and PBDEs from plastic transfer to fish tissue during digestion and bioaccumulate, resulting in liver damage.

(j) Fish that humans consume have been found to ingest *synthetic* plastic microbeads.

(k) There are many biodegradable, natural alternatives to *synthetic* plastic microbeads that are economically feasible, as evidenced by their current use in some consumer personal care products.

42361. As used in this chapter, the following terms have the following meanings:

(a) *“Over-the-counter drug” has the same meaning as defined in subdivision (d) of Section 110286 of the Health and Safety Code.*

~~(a)~~

(b) “Person” means an individual, business, or other entity.

~~(b)~~

(c) (1) “Personal care product” means an article that is intended to be rubbed, poured, sprinkled, or sprayed on, introduced to, or otherwise applied to, the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, ~~and that may to be rinsed off~~, *off in normal use conditions*, including an article intended for use as a component of such an article.

(2) “Personal care product” does not include a prescription drug, as defined in Section 110010.2 of the Health and Safety Code.

~~(c) “Plastic microbead”~~

(d) *“Synthetic plastic microbead”* means an intentionally added plastic particle of non-water-soluble plastic measuring five millimeters or less in size in every dimension.

42362. (a) On or after January 1, 2019, a person shall not sell or offer for promotional purposes in this state any personal care products containing *synthetic plastic microbeads*. ~~microbeads~~, *unless the personal care product is an over-the-counter drug.*

(b) *On or after January 1, 2020, a person shall not sell or offer for promotional purposes in this state a personal care product that contains synthetic plastic microbeads, including, but not limited to, a personal care product that is an over-the-counter drug.*

42363. Section 42362 shall not apply to any person that sells or offers for promotional purposes a personal care product

1 containing *synthetic* plastic microbeads in less than 1 part per
2 million (ppm) by weight.

3 42364. (a) A person who violates or threatens to violate Section
4 42362 may be enjoined in any court of competent jurisdiction.

5 (b) (1) A person who violates Section 42362 is liable for a civil
6 penalty not to exceed two thousand five hundred dollars (\$2,500)
7 per day for each violation in addition to any other penalty
8 established by law. That civil penalty may be assessed and
9 recovered in a civil action brought in any court of competent
10 jurisdiction.

11 (2) In assessing the amount of a civil penalty for a violation of
12 this chapter, the court shall consider all of the following:

13 (A) The nature and extent of the violation.

14 (B) The number of, and severity of, the violations.

15 (C) The economic effect of the penalty on the person.

16 (D) Whether the person took good faith measures to comply
17 with this chapter and the time these measures were taken.

18 (E) The deterrent effect that the imposition of the penalty would
19 have on both the person and the regulated community as a whole.

20 (F) Any other factor that justice may require.

21 (c) Actions pursuant to this section may be brought by the
22 Attorney General in the name of the people of the state, by a district
23 attorney, by a city attorney of a city having a population in excess
24 of 750,000 persons, or, with the consent of the district attorney,
25 by a city prosecutor in a city or city and county having a full-time
26 city prosecutor.

27 42367. The civil penalties collected pursuant to Section 42364
28 shall be retained by the office of the city attorney, city prosecutor,
29 district attorney, or Attorney General, whichever office brought
30 the action.

31 42368. (a) This chapter does not alter or diminish any legal
32 obligation otherwise required in common law or by statute or
33 regulation, and this chapter does not create or enlarge any defense
34 in any action to enforce the legal obligation. Penalties and sanctions
35 imposed under this chapter shall be in addition to any penalties or
36 sanctions otherwise prescribed by law.

37 (b) This chapter addresses a matter of statewide interest and
38 concern and is applicable uniformly throughout the state.
39 Accordingly, this chapter occupies the whole field of regulation
40 of ~~plastic microbeads~~, *the sale or offering for promotional purposes*

1 *of personal care products containing synthetic plastic microbeads*
2 *except as provided in subdivision (a).*

3 (c) On and after January 1, 2019, a city, county, or other local
4 public agency shall not adopt, enforce, or otherwise implement,
5 an ordinance, resolution, regulation, or rule, or any amendment
6 thereto, relating to *the sale or offering for promotional purposes*
7 *of personal care products that are not over-the-counter drugs and*
8 *that contain synthetic plastic microbeads, except as expressly*
9 *authorized by this chapter.*

10 (d) *On and after January 1, 2020, a city, county, or other local*
11 *public agency shall not adopt, enforce, or otherwise implement,*
12 *an ordinance, resolution, regulation, or rule, or any amendment*
13 *thereto, relating to the sale or offering for promotional purposes*
14 *of personal care products, including, but not limited to,*
15 *over-the-counter drugs, that contain synthetic plastic microbeads,*
16 *except as expressly authorized by this chapter.*